

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DRYWALL TAPERS AND POINTERS OF GREATER :
NEW YORK LOCAL UNION 1974, AFFILIATED :
WITH INTERNATIONAL UNION OF ALLIED :
PAINTERS AND ALLIED TRADES, AFL-CIO, :

Petitioner,

-v-

FALCON & SONS CORP.,

Respondent.
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20-CV-10113 (JMF)

MEMORANDUM OPINION
AND ORDER

JESSE M. FURMAN, United States District Judge:

On December 2, 2020, Petitioner filed a Petition to Confirm Arbitration. ECF No. 1. On December 3, 2020, the Court set an initial briefing schedule for Petitioner's submission of any additional materials in support of the Petition, Respondent's opposition, and Petitioner's reply. *See* ECF No. 7. Petitioner served Respondent with the Petition and supporting materials, but did not timely serve the initial briefing schedule. *See* ECF Nos. 7, 8, 10, 13. In light of that, the Court set a revised briefing schedule to afford Respondent a meaningful opportunity to be heard. *See* ECF No. 13. Petitioner served Respondent with the revised briefing schedule. *See* ECF No 14. Pursuant to that schedule, Respondent's opposition was due no later than January 27, 2021. *See* ECF No. 13. To date, Respondent has neither responded to the petition nor otherwise sought relief from the Award.

The Court must treat the Petition, even though unopposed, "as akin to a motion for summary judgment based on the movant's submissions." *Trs. for Mason Tenders Dist. Council*


Welfare Fund, Pension Fund, Annuity Fund & Training Program Fund v. Capstone Constr. Corp., 11-CV-1715 (JMF), 2013 WL 1703578, at *2 (S.D.N.Y. Apr. 19, 2013) (discussing in depth the legal standards for resolving unopposed petitions to confirm arbitration awards). After reviewing the petition and the supporting materials, the Court finds that there is no genuine issue of material fact precluding summary judgment as to all portions of the Award, as the Arbitrator's decision provides more than "a barely colorable justification for the outcome reached." *Id.* at *3 (internal quotation marks omitted). Nor is there any justification under Section 10(a) of the Federal Arbitration Act for vacating the Award.

The Court also awards Petitioner's requested attorneys' fees and costs. *See Int'l Chem. Workers Union (AFL-CIO), Local No. 227 v. BASF Wyandotte Corp.*, 774 F.2d 43, 47 (2d Cir. 1985) ("[W]hen a challenger refuses to abide by an arbitrator's decision without justification, attorney's fees and costs may properly be awarded." (internal quotation marks omitted)). Here, Petitioner has met its burden of proving the reasonableness and necessity of hours spent, rates charged, and litigation costs incurred.

Accordingly, the Court grants Petitioner's unopposed petition to confirm the entire Award. Petitioner is directed to file their Proposed Judgment electronically, using the ECF Filing Event "Proposed Judgment," by **February 4, 2021**.

SO ORDERED.

Dated: January 28, 2021
New York, New York



JESSE M. FURMAN
United States District Judge